

REMARKS

Claims 1-73 are pending in the present application. Claims 9-73 are amended to properly renumber the claims. Reconsideration of the claims is respectfully requested.

I. Disposition of Claims

The Office Action summary lists claims 1-16 and 33-47 as pending and claims 1-16 and 33-47 as rejected. Due to a typographical error, the originally filed claims included claims 1-7, 9-56, and 58-75. 37 C.F.R. § 1.75(f) states that claims shall be numbered consecutively. The Restriction Requirement issued April 20, 2004, listed claims 1-74 as pending. Based on the groupings of claims in the Restriction Requirement, Applicants assume the Office renumbered claims 58-75 to correct for the missing claim 57. However, the Office failed to account for the missing claim 8. Therefore, the pending claims should have been, and should now be, claims 1-73.

Mislead by the incorrect numbering of the claims and the failure of the Office to notify Applicants that the claims were renumbered, Applicants erroneously and prematurely indicated claims 63-74 as withdrawn. In fact, the Examiner, not Applicants, shall withdraw claims to a non-elected invention from consideration upon making the restriction final. See MPEP § 802.01. Generally, claims withdrawn from consideration are to be held pending and may be rejoined. See MPEP §§ 802.04, 806.05(c), 809, and 809.04.

The claims are amended to correctly renumber the claims, resulting in claims 1-73. Therefore, Applicants submit that claims 1-73 are pending in the instant application.

II. Finality of Restriction Improper

The Restriction Requirement issued on April 20, 2004, at first glance, presented a six-way restriction with each and every independent claim, along with the claims dependent thereon, representing a separate group. However, the Restriction Requirement also established that groups I and III would be examined together, groups I and IV would be examined together, and groups IV and V would be examined together. The original Restriction Requirement appeared to establish groups I, III, IV, and V as one invention, even going so far as to explicitly state that these groups of claims were not considered

distinct inventions. Similarly, the Examiner appeared to believe that claims 1 and 2, for example, were in the same inventive group because they were included in the same group. It follows that groups I, III, IV, and V are also in the same inventive group, because the Examiner stated her belief that they were not distinct inventions. Whether Applicants agree is irrelevant, because Applicants should not be asked to elect from subsets of inventive groups. No grounds exist for such a restriction requirement.

The Examiner also established in the Restriction Requirement that it would not be a burden on the Examiner to examine all of groups I, III, IV, and V. The Restriction Requirement states:

Should Applicants choose invention I, invention III will also be examined.
Should Applicants choose invention II, invention I will also be examined.

See paragraph 4 of the Restriction Requirement.

Should Applicants choose invention IV, invention I will also be examined.
will also be examined. [sic.] Should Applicants choose invention I,
invention IV will also be examined.

See paragraph 6 of the Restriction Requirement.

Should Applicant also elect IV, invention V will also be examined.
Should Applicants choose invention V, invention IV will also be
examined.

See paragraph 23 of the Restriction Requirement. It is clear from the above that the Examiner believed that groups I, III, IV, and V should be examined together. Therefore, Applicants elected group I based on the promise of having groups I, III, IV, and V examined together. However, the Office Action issued September 1, 2004, made the restriction final and withdrew claims 17-32 and 48-74 (renumbered herein as claims 16-31 and 47-73) from consideration. The Office Action presents an examination of only groups I and IV. Applicants submit that groups I, III, IV, and V must be examined together or the restriction must be re-presented so that Applicants are given a fair opportunity to elect and traverse. Examiner cannot present groups I, III, IV, and V as one invention to be examined together and then withdraw subsets of claims without giving the Applicants an opportunity to re-elect.

For the purposes of this response, claims 1-73 are considered pending and only claims 16-28 and 62-73 are considered withdrawn from consideration.

III. 35 U.S.C. § 102, Anticipation

The Office Action rejects claims 1-3, 6-8, 11-16, 33-35, 38, 39, and 42-47 under 35 U.S.C. § 102 as being anticipated by *Westrope et al.* (U.S. Patent No. 5,721,832). Applicants note that the claims rejected do not match the pending claims. For example, the originally filed claims did not include a claim 8 and the Office has not notified Applicants that the claims were renumbered. It is difficult to determine which of the pending claims are actually rejected, especially considering that the claims are not individually addressed in the body of the rejection. Applicants assume that the claims rejected are 1-3, 6, 7, 10-15, 32-34, 37, 38, and 41-46, as renumbered above. This rejection is respectfully traversed.

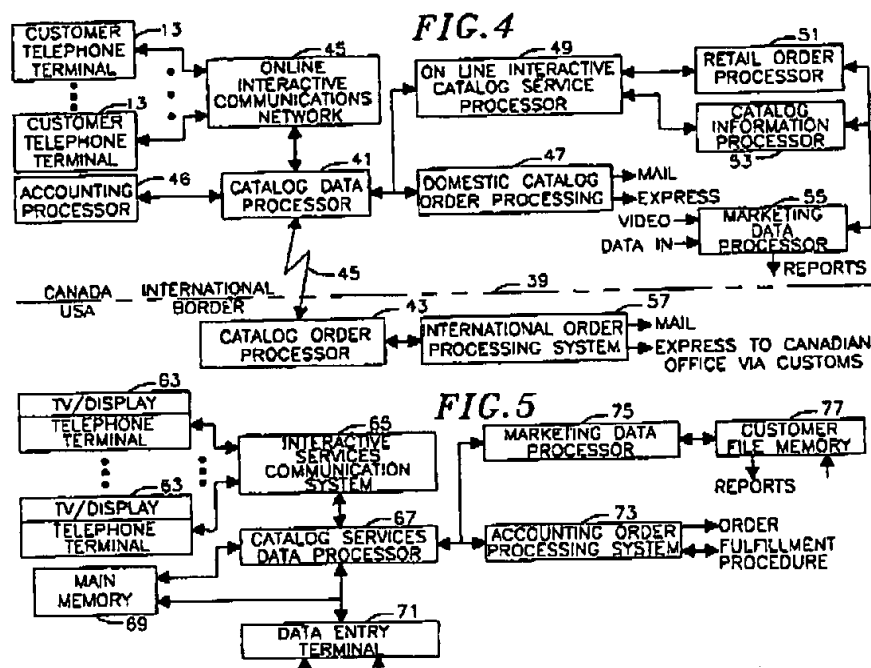
Westrope teaches a method and apparatus for an interactive computerized catalog system. In *Westrope*, a customer initiates system operation by dialing an access number from a telephone terminal through a communication network. A menu of catalogs, catalog products, and services available on the system are automatically transmitted from a catalog processor to the subscriber's telephone terminal. A marketing data processor generates customer profile marketing data. An order processor initiates various accounting, financial payment authorization, and/or assembly and shipping procedures.

Thus, *Westrope* teaches a data processing system in which individual data processors have specialized functionality. For example, a catalog services data processor performs catalog services; a marketing data processor generates marketing data; and, an order processor processes customer orders for products or services. In contradistinction, the present invention provides a method, system, data processing system, and computer program product for managing a catalog where a plurality of secondary data processing systems in a network manage category and inventory information. Claim 1, for example, recites:

1. A method in a primary data processing system for managing a catalog, the method comprising:
 - sending a catalog and user information to a plurality of secondary data processing systems located in a network data processing system;
 - allocating inventory associated with the catalog to the plurality of secondary data processing systems;
 - receiving an order from one of the plurality of secondary data processing systems; and
 - processing the order, in response to receiving the order.

Westrope does not teach or suggest sending a catalog and user information to a plurality of secondary data processing systems, allocating inventory associated with the catalog to the plurality of secondary data processing systems, receiving an order from one of the plurality of data processing systems, and processing the order in response to receiving the order, as recited in claim 1.

The Office Action alleges that catalog data processor 67 in Figure 5 of *Westrope* is interpreted to be equivalent to the claimed primary data processing system. Figures 4 and 5 of *Westrope* is reproduced as follows:



The Office Action also alleges that *Westrope* teaches that catalog data processor 67 sends a catalog and user information to a plurality of secondary data processing systems located in a network data processing system. The Office Action interprets marketing data processor 75 of *Westrope* to be equivalent to a plurality of secondary data processing systems. Applicants respectfully disagree. Marketing data processor 75 of *Westrope* is clearly a single data processing system. The Office Action proffers no analysis as to why a single data processor is equivalent to a plurality of data processing systems.

The Office Action further alleges that *Westrope* teaches that catalog data processor 67 allocates inventory associated with the catalog to the plurality of data

processing systems and references inventory memory 107 in Figure 8 for such a teaching. *Westrope* states that Figure 8 is a logic flow block diagram of the process and system apparatus for online interactive catalog system. Figure 8 of *Westrope* includes customer terminal 81 and other functional blocks shown and described with relation to Figure 4, reproduced above. However, the data files 107 in Figure 8 of *Westrope* in no way teach that catalog data processor 67 allocates inventory to a plurality of secondary data processing systems. To the contrary, *Westrope* teaches a centralized store of inventory information. *Westrope* does not teach any allocation of inventory at all other than for fulfilling orders.

Still further, the Office Action alleges that *Westrope* teaches receiving an order from one of the plurality of secondary data processing systems, which the Office Action establishes as marketing data processor 75, and processing the order at col. 7, lines 23-30. The cited portion of *Westrope* states:

If a user elects to order a specific product or service, this is done under menu control at a user terminal and the menu would prompt the user to enter the appropriate order data codes via, for example, a touchtone telephone pad on the user terminal 63. In response to receipt of such user order data codes, the catalog data processing signals the accounting and order processor 73, which is similar in function and structure to the order and accounting processor of FIGS. 1 and 3 to exercise the appropriate order processing requests to clear the customer/user's financial payment authorization and initiate the order fulfillment procedure to have the ordered products assembled and mailed to the address directed by the user/customer for that particular transaction.

Westrope, col. 7, lines 23-36. Thus, *Westrope* teaches that the catalog processing signals the order processor to exercise the appropriate order processing requests. *Westrope* does not teach that catalog services data processor 67, which the Office Action equated to the primary data processing system, receives an order from marketing data processor 75, which the Office Action equated to the plurality of secondary data processing systems. It appears the Office Action is simply pointing to arbitrary elements in the reference as allegedly meeting the claim limitations. However, Applicants assert that the elements of *Westrope* are not combined and arranged as they are in the present claims.

Simply stated, *Westrope* does not teach or suggest sending a catalog and user information to a plurality of secondary data processing systems and allocating inventory to the plurality of secondary data processing systems. *Westrope* also fails to teach or suggest receiving an order from one of the plurality of secondary data processing systems, as recited in claim 1. The applied reference does not teach or suggest each and every claim limitation; therefore, *Westrope* does not anticipate claim 1. Independent claims 32 and 47 recite subject matter addressed above with respect to claim 1 and are allowable for similar reasons. Since claims 2, 3, 6, 7, 11-15, 34, 35, 37, 38, 41-46, 48, 49, 52, 53, and 56-61 depend from claims 1, 32, and 47, the same distinctions between *Westrope* and the invention recited in claims 1, 32, and 47 apply for these claims. Additionally, claims 2, 3, 6, 7, 11-15, 34, 35, 37, 38, 41-46, 48, 49, 52, 53, and 56-61 recite other additional combinations of features not suggested by the reference.

More particularly, claim 3 recites, "receiving a request to reallocate the inventory from a particular secondary data processing system within the plurality of secondary data processing systems," "identifying a reallocation of the inventory in response to receiving the request," and "sending messages to each secondary data processing system involved in the reallocation of the inventory"; claim 10 recites, "detecting a presence of another secondary data processing system" and "sending the catalog to the another secondary data processing system in response to detecting the presence"; and, claim 13 recites, "sending a second catalog to a second plurality of secondary data processing systems" and "allocating the second inventory to be associated with the second catalog to the second plurality of secondary data processing systems." The Office Action does not specifically address any of the features of at least claims 3, 10, and 13; hence, the Office Action does not establish a *prima facie* case of anticipation for these claims.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 11-3, 6, 7, 10-15, 32-34, 37, 38, and 41-46 under 35 U.S.C. § 102.

Claim 29 recites the primary computing node notifies the plurality of secondary computing nodes of updates to the catalog, a user contacts a first node from the plurality of secondary computing nodes, the user places a product order with the first node, the first node forwards the order to a selected node to process the order based on selected criteria. Claim 30 recites wherein the selected criteria is at least one of a geographic

proximity and a number of ordered items. Claim 31 recites wherein the selected node is selected from one of the primary computing node and one of the plurality of secondary computing nodes. The Office Action does not address these limitations. Applicants assert that *Westrope* does not teach or suggest the features of claims 29-31 and, thus, does not anticipate these claims.

Furthermore, *Westrope* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. *Westrope* actually teaches away from the presently claimed invention because it teaches an individual data processor for each function, as opposed to sending catalog and user data to a plurality of secondary data processing systems and allocating inventory to the plurality of secondary data processing systems, as in the presently claimed invention. Absent the Office Action pointing out some teaching or incentive to implement *Westrope* to send catalog data and user data to a plurality of secondary data processing systems and receive an order from one of the plurality of secondary data processing systems, one of ordinary skill in the art would not be led to modify *Westrope* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Westrope* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

IV. 35 U.S.C. § 103, Obviousness

The Office Action rejects claims 4, 5, 36, and 37 under 35 U.S.C. § 103 as being unpatentable over *Westrope et al.* (U.S. Patent No. 5,721,832). Applicants note that the claims rejected do not match the pending claims. Applicants assume that the claims rejected are 4, 5, 35, and 36, as renumbered above. This rejection is respectfully traversed.

The Office Action acknowledges that *Westrope* does not teach allocation of inventory to a plurality of secondary data processing systems upon detection of a condition that is a threshold. The Office Action alleges that setting a condition when determining whether or not an inventory is necessary is well known. While setting inventory conditions may be generally known in the art, *Westrope* does not teach a

problem for which setting inventory conditions would be a solution. *Westrope* teaches a single data store for inventory information, a single catalog processor, and a single order processor. As stated above, *Westrope* does not teach or fairly suggest any allocation of inventory. In fact, *Westrope* does not teach or fairly suggest receiving a request to reallocate inventory from a particular secondary data processing system within a plurality of secondary data processing systems, as recited in claim 3 upon which claim 4 depends, for example. Therefore, a person of ordinary skill in the art would not have found it obvious to receive a request to reallocate inventory to a secondary data processing system within a plurality of secondary data processing systems upon detection of a condition. Simply stated, the applied reference, even if supplemented with the general knowledge of setting inventory conditions, fails to teach or fairly suggest each and every claim limitation. Therefore, *Westrope* does not render claims 4, 5, 35, and 36 obvious.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 4, 5, 35, and 36 under 35 U.S.C. § 103.

The Office Action rejects claims 9, 10, 40, and 41 under 35 U.S.C. § 103 as being unpatentable over *Westrope et al.* (U.S. Patent No. 5,721,832) in view of *Yamazoe et al.* (U.S. Pub. No. 2001/0032148). Applicants note that the claims rejected do not match the pending claims. Applicants assume that the claims rejected are 8, 9, 39, and 40, as renumbered above. This rejection is respectfully traversed.

The Office Action acknowledges that *Westrope* does not teach a catalog being sent in a markup language or, more particularly, extensible markup language (XML). The Office Action then alleges that *Yamazoe* teaches an application service with extensible markup language. *Yamazoe* does indeed teach an XML system e-catalog generation system. However, *Yamazoe* does not teach or suggest sending a catalog and user information to a plurality of secondary data processing systems, allocating inventory associated with the catalog to the plurality of secondary data processing systems, receiving an order from one of the plurality of data processing systems, and processing the order in response to receiving the order. Therefore, *Yamazoe* does not make up for the deficiencies of *Westrope*. As such, *Westrope* and *Yamazoe*, taken individually or in combination, fail to teach or suggest each and every claim limitation. Therefore, the

proposed combination of *Westrope* and *Yamazoe* does not render claims 8, 9, 39, and 40 obvious.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 8, 9, 39, and 40 under 35 U.S.C. § 103.

V. Conclusion

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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